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Snell & Wilmer L.L.P., (Komaromy)			EXAMINER	
One Arizona Center			NASH, LASHANYA RENEE	
400 East Van Buren Street				
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			01/09/2012	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

landerson@swlaw.com  
tkomaromy@swlaw.com  
krigby@swlaw.com

**Office Action Summary****Application No.**

10/687,210

**Applicant(s)**

HUBBARD ET AL.

**Examiner**

LASHANYA NASH

**Art Unit**

2492

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 29-54 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 29-54 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 4
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

This Office action is in response to the request for continued examination filed 25 May 2011. Claims 29-54 are presented for further consideration. Claims 1-28 are cancelled. Claims 29, 34, 35, 37, 42, 43, 49, and 54 are currently amended.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 May 2011 has been entered.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 25 May 2011, with respect to the rejections of claims 29-54 under 35 USC § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new grounds of rejection is made in view of a newly found prior art reference Ross (US Patent 6,961,562), as set forth below in the Office action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim elements "means for identifying" "means for identifying"; "means for providing"; and "means for receiving" are means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 29-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US Patent 6,611,686) and Ross US Patent (6,961,562), hereinafter referred to as Smith and Ross respectively.**

In reference to claim 29, Smith discloses a tracking control and logistics system employing remotely located sensors via a network (abstract). Smith further discloses:

- A server system (server; Figure 3-item 104) configured to:
- A remote distributed device (i.e. monitor devices; column 5, lines 35-51; Figure 3-items 10) , wherein the capabilities of the of the remote distributed device comprise at least one of sensing environmental data ( i.e. temperature data; abstract; column 7, lines 9-13) or location data (i.e. location data of monitoring device; column 9, lines 61-65) ) via at least one sensor coupled to the remote distributed device (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28) ; and
- receive at least one of the environmental data or the location data from the remote distributed device (i.e. server receives tracking data from the monitor units; column 13, lines 38-42)

However Smith fails to disclose: provide an incentive to a remote distributed devices to provide capabilities of the remote distributed device to the server system, wherein the incentive is based at least in part on the capabilities of the remote distributed device; and receiving at least one of the environment data or location data from the remote distributed device in response to acceptance of the incentive. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses: provide an incentive to a remote distributed devices (i.e. mobile device Figure 3-item 2) to provide capabilities of the remote distributed device to the server system (i.e. location server; Figure 3-item 1), (i.e. provide incentive to mobile device user for location data acquiring capability of mobile device; column 7, line 63-column 8, line 6); wherein the incentive that is based at least in part on the capabilities of the remote distributed device(i.e. incentive based on location acquiring; column 8, lines 2-6); and receiving at least one of the environment data or location data from the remote distributed device in response to acceptance of the incentive (i.e. location data received from mobile device in response to user incentives; column 8, line 7-16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claim 37, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A method comprising:
- A server system (server; Figure 3-item 104) to a remote distributed device (i.e. monitor devices; column 5, lines 35-51; Figure 3-items 10), wherein the capabilities of the remote distributed device comprise at least one of sensing environmental data ( i.e. temperature data; abstract; column 7, lines 9-13) or location data (i.e. location data of monitoring device; column 9, lines 61-65), via at least one sensor coupled to the remote distributed device (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28), and
- receiving at least one of the environmental data or the location data from the remote distributed device (i.e. server receives tracking data from the monitor units; column 13, lines 38-42).

However, Smith fails to disclose providing an incentive by a server to a remote distributed device to provide capabilities of the remote distributed device to the server system, wherein the incentive is based at least in part on the capabilities of the remote distributed device; and receiving at least one of the environmental data or the location data from the remote distributed device in response to acceptance of the incentive.

Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses: providing an incentive by a server system (i.e. location server; Figure 3-item 1) to a remote distributed device (i.e. mobile device Figure 3-item 2) to provide capabilities of the remote distributed device to the server system (i.e. provide incentive to mobile device user for location data acquiring capability of mobile device; column 7, line 63-column 8, line 6), wherein the incentive is based at least in part on the capabilities of the remote distributed device (i.e. incentive based on location acquiring; column 8, lines 2-6); and receiving at least one of the environmental data or the location data from the remote distributed device in response to acceptance of the incentive (i.e. location data received from mobile device in response to user incentives; column 8, line 7-16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claim 43, Smith discloses a computer-readable medium comprising programming for implementing tracking control and logistics method for employing remotely located sensors via a network (abstract; Figure 5). Smith further discloses:



- A computer-readable storage medium having stored thereon computer executable instructions, that, in response to execution by a computing device cause the computing device to perform operation(i.e. programming of monitoring unit; column 8, lines 48-54), comprising:
- A remote distributed device (i.e. monitor devices; column 5, lines 35-51; Figure 3-items 10) to join (i.e. command certain monitoring units; column 13, lines 17-25) a sensor based distributing processing device (i.e. command certain monitoring units for a monitored system; column 13, lines 17-25) coupling one or more environmental sensors (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28) to the remote distributed device (column 5, lines 35-51);
- Receiving a measurement of at least one environmental condition form the one or more remote environmental sensors coupled to the remote distributed device (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13)
- Wherein one of the system capabilities of the one or more remote distributed devices comprising the type of the one or more environmental sensors (column 6, lines 60-column 7, line 4); and

However, Smith fails to disclose providing a beneficial incentive to join a distributed processing system and to provide capabilities of the remote distributed device to the sensor based distributed processing system, the beneficial incentive based at least in part on system capabilities of the one or more remote distributed devices and receiving

data in response to the remote distribution accepting the beneficial incentive.

Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses: providing a beneficial incentive to join a distributed processing system (i.e. information brokering system column 8, lines 55- 67; Figure 14) to provide capabilities of the remote distributed device (i.e. provide incentive to mobile device user for location data acquiring capability of mobile device; column 7, line 63-column 8, line 6) to the distributed processing system (i.e. location server; Figure 3-item 1), the beneficial incentive based at least in part on system capabilities of the one or more remote distributed devices (i.e. incentive based on location acquiring; column 8, lines 2-6); and receiving data in response to the remote distributed device accepting the beneficial incentive (i.e. location data received from mobile device in response to user incentives; column 8, line 7-16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claim 49, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A method comprising:

- identifying, by one or more server systems (server identifies the monitoring devices; column 13, lines 25-30), one or more remote distributed devices (i.e. monitoring device identification number; column 13, lines 30-38) configured to sense a condition (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13) ;
- identifying, by the one or more server system, one or more capabilities associated with the one or more remote distributed device (i.e. actions based on capabilities of the monitoring device; column 7, lines 4-33);
- one or more distributed devices to join (i.e. command certain monitoring units; column 13, lines 17-25) a distributed computing platform (i.e. command certain monitoring units for a monitored system; column 13, lines 17-25) and to provide data corresponding to a sensed condition (i.e. location data of monitoring device; column 9, lines 61-65),
- receiving, by the one or more server systems, data from the at least one or more remote distributed devices (i.e. server receives tracking data from the monitor units; column 13, lines 38-42); and

However, Smith fails to disclose: providing an incentive, by the one or more server systems, to the one or more remote distributed devices to join a distributed computing platform and provide data; the incentive based, at least in part, upon the one or more capabilities associated with the one or more remote distributed devices; and receiving data in response to the remote distribution accepting the incentive to join the distributed computing platform and provide capabilities of the remote distributed devices to the

distributed computing platform. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses: providing an incentive, by the one or more server systems (i.e. location server; Figure 3-item 1), to the one or more remote distributed devices to join a distributed computing platform (i.e. information brokering system column 8, lines 55- 67; Figure 14) to provide data (i.e. provide incentive to mobile device user for location data acquiring capability of mobile device; column 7, line 63-column 8, line 6); the incentive based, at least in part, upon the one or more capabilities associated with the one or more remote distributed devices (i.e. incentive based on location acquiring; column 8, lines 2-6); and receiving data in response to the remote distribution accepting the incentive to join the distributed computing platform and provide capabilities of the remote distributed devices to the distributed computing platform (i.e. location data received from mobile device in response to user incentives; column 8, line 7-16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claim 54, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A method comprising:
- A means for identifying (i.e. server; Figure 3-item 104), (i.e. server identifies the monitoring devices; column 13, lines 25-30), one or more remote distributed devices (i.e. monitoring device identification number; column 13, lines 30-38) configured to sense a condition (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13) ;
- A means for identifying (i.e. server; Figure 3-item 104), one or more capabilities associated with the one or more remote distributed device (i.e. actions based on capabilities of the monitoring device; column 7, lines 4-33);
- A means for (i.e. server; Figure 3-item 104) one or more distributed devices to join (i.e. command certain monitoring units; column 13, lines 17-25) a distributed computing platform (i.e. command certain monitoring units for a monitored system; column 13, lines 17-25) and to provide data corresponding to a sensed condition (i.e. location data of monitoring device; column 9, lines 61-65),
- Means for receiving (i.e. server; Figure 3-item 104), data from the at least one or more remote distributed devices (i.e. server receives tracking data from the monitor units; column 13, lines 38-42); and

However, Smith fails to disclose: a means for providing an incentive, by the one or more server systems, to the one or more remote distributed devices to join a distributed computing platform and provide data; the incentive based, at least in part, upon the one

or more capabilities associated with the one or more remote distributed devices; and receiving data in response to the remote distribution accepting the incentive to join the distributed computing platform and provide capabilities of the remote distributed devices to the distributed computing platform. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses: a means for (i.e. location server; Figure 3-item 1) providing an incentive to the one or more remote distributed devices to join a distributed computing platform (i.e. information brokering system column 8, lines 55- 67; Figure 14) to provide data (i.e. provide incentive to mobile device user for location data acquiring capability of mobile device; column 7, line 63-column 8, line 6); the incentive based, at least in part, upon the one or more capabilities associated with the one or more remote distributed devices (i.e. incentive based on location acquiring; column 8, lines 2-6); and receiving data in response to the remote distribution accepting the incentive to join the distributed computing platform and provide capabilities of the remote distributed devices to the distributed computing platform (i.e. location data received from mobile device in response to user incentives; column 8, line 7-16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location

information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claims 30, 38 and 46 Smith discloses wherein the one or more remote distributed devices are configured to sense an environmental condition with at least one environmental sensor, the environmental sensor comprising one or more of a biometrics detection sensor, an early warning sensor, a network intrusion sensor, a radio frequency identification sensors, or a system security sensor (column 7, lines 1-22).

In reference to claims 31, 39 and 45 Smith discloses wherein the environmental data comprises one or more of temperature data, humidity data, video data, or identification parameter data (column 7, lines 1-22).

In reference to claims 32 and 40 Smith discloses, wherein the location data comprises one or more of Global Positioning System coordinates, an address, or a network address (column 9, lines 60-65).

In reference to claims 33, 41 and 44 Smith fails to disclose wherein to incentivize comprises supplying the one or more remote distributed devices with one or more of a sweepstakes entry, a monetary reward, a non-monetary reward, a connectivity service, internet access, domain name hosting, or an E-mail account. Nonetheless, this would

have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses wherein to incentivize comprises supplying the one or more remote distributed devices with one or more of a sweepstakes entry, a monetary reward, a non-monetary reward, a connectivity service, internet access, domain name hosting, or an E-mail account (column 7, line 63-column 8, line 16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claims 34, Smith fails to disclose discloses wherein the server system is further configured to select one or more remote distributed devices based in part on a location of the one or more remote distributed devices and/or the at least one environmental sensor. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Ross.

In an analogous art, Ross discloses a mechanism for acquiring and processing information indication location of mobile communication devices (abstract). Ross discloses wherein the server system is further configured to select one or more remote distributed devices based in part on a location of the one or more remote distributed



devices and/or the at least one environmental sensor (column 7, line 63-column 8, line 16). One of ordinary skills in the art at the time of the invention would have been motivated to modify the server of Smith as to provide incentives to users employ mobile devices to acquire and provide location information that companies find useful regarding customers (Ross; column 7, lines 63-67).

In reference to claims 35, 42 and 47 Smith discloses wherein the server system is further configured to store the environmental data and the location data based in part on an identifier associated with the one or more remote distributed devices and/or the at least one environmental sensor (column 13, lines 35-42).

In reference to claim 36, Smith wherein the server system is further configured to transfer the environmental data and the location data to a customer system (column 13, lines 42-50).

In reference to claim 48, Smith discloses further comprising instructions to wirelessly receive data from the one or more environmental sensors (column 5, lines 50-55).

In reference to claim 50, Smith discloses wherein the identifying includes identifying capabilities associated with one or more processing devices that are either internally or externally attached to the one or more remote distribute devices (column 7, lines 14-45).

In reference to claim 51, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with an ability to provide infrastructure support for one or more sensors (i.e. data reporting, logging, and collection capabilities of the monitoring device; column 7, lines 14-45).

In reference to claim 52, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with an ability to provide infrastructure support for sensors comprising one or more of power sensors, communication services sensors, recording sensors, or data logging services sensors (column 7, lines 14-45).

In reference to claim 53, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with storage capabilities of the one or more remote distributed devices (column 7, lines 14-45).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHANYA NASH whose telephone number is (571)272-3957. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShanya R Nash/  
Examiner, Art Unit 2492  
December 17, 2011

/saleh najjar/  
Supervisory Patent Examiner, Art Unit 2492